



## **PLANNING PROPOSAL**

### **AMENDMENT TO THE MAITLAND LEP 2011**

Item 1 - Lot 21 of DP 541629 Council Car Park/Rear Lane East Maitland.

Item 2 - Lot 848 of DP 703278 (John Arthur Ave), Part Lot 1538 of DP 832922 and Part Lot 8884 of DP 786883 (Thomas Coke Drive), Thornton.





## CONTENTS

CONTENTS.....	i
INTRODUCTION .....	1
PART 1:OBJECTIVES OR INTENDED OUTCOMES .....	2
PART 2:EXPLANATION OF PROVISIONS .....	2
PART 3:JUSTIFICATION FOR PROPOSED REZONING .....	2
SECTION A – NEED FOR THE PLANNING PROPOSAL .....	2
SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK .....	2
SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT .....	18
SECTION D – STATE AND COMMONWEALTH INTERESTS .....	18
PART 4:DRAFT LEP MAPS .....	20
PART 5:COMMUNITY CONSULTATION .....	22
PART 6:TIMEFRAMES .....	23

Version 1.0 – (For s.55 Council Report)

## Tables

<a href="#">Table 1: Relevant State Environmental Planning Policies.....</a>	14
<a href="#">Table 2: s117 Directions.....</a>	14

## INTRODUCTION

This planning proposal has been prepared in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for the proposed amendment to Schedule 4 of the Maitland Local Environmental Plan 2011 (MLEP 2011) to

*Reclassification of the following Council owned sites from Community to Operational land:*

- Item 1: Lot 21 of DP 541629 Council Car Park/Rear Lane East Maitland and
- Item 2: Lot 848 of DP 703278 (John Arthur Ave), Part Lot 1538 of DP 832922 and Part Lot 8884 of DP 786883 (Thomas Coke Drive)

Delegation for making the local environmental plan has not been issued to the Council.

## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are to amend Schedule 4 of the Maitland Local Environmental Plan 2011 to enable the reclassification of Community Land (listed below in Table 1) to Operational Land. The intended outcome for the 2 items in this Planning Proposal are as follows:

- Item 1: reclassify the identified land from Community to Operational for the purpose of amending an anomaly of a parcel of land that's forms part of an existing carpark and access lane.
- Item 2: reclassify the identified land from Community to Operational for the purpose of legal and practical access to an intended residential subdivision.

## PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks to amend as outlined below:

Item No	Explanations of Provisions
1	<ul style="list-style-type: none"><li>• Reclassify the subject land from Community to Operational (include within Schedule 4, Part 2)</li><li>• The Land Zoning Map is currently B2 Local Centre and will not change.</li><li>• The lot size is 215m<sup>2</sup> and will not change.</li></ul>
2	<ul style="list-style-type: none"><li>• Reclassify the subject land from Community to Operational (Include within Schedule 4, Part 2)</li><li>• To amend the Land Reclassification (Parts Lot) Map to include this item.</li><li>• The Land Zoning Map is currently RE1 Public Recreation and will not change.</li></ul>

## PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

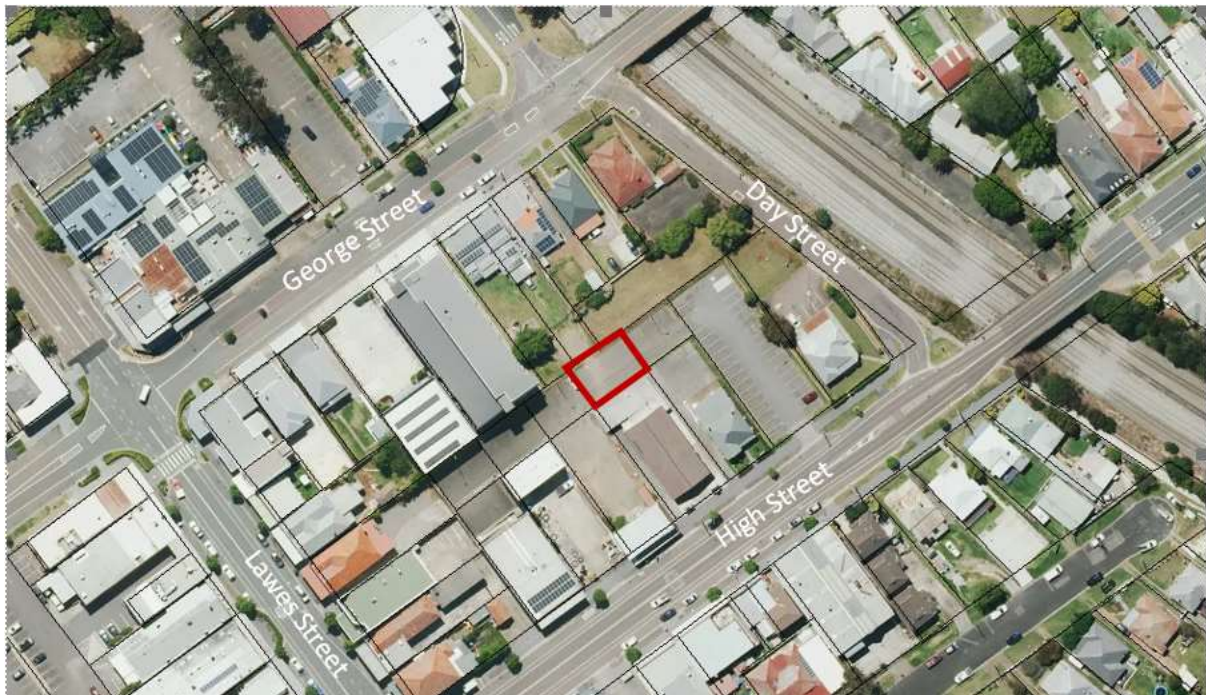
- Section A: Need for the planning proposal.
- Section B: Relationship to strategic planning framework.
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

### SECTION A – NEED FOR THE PLANNING PROPOSAL

## 1. Is the planning proposal a result of any strategic study or report?

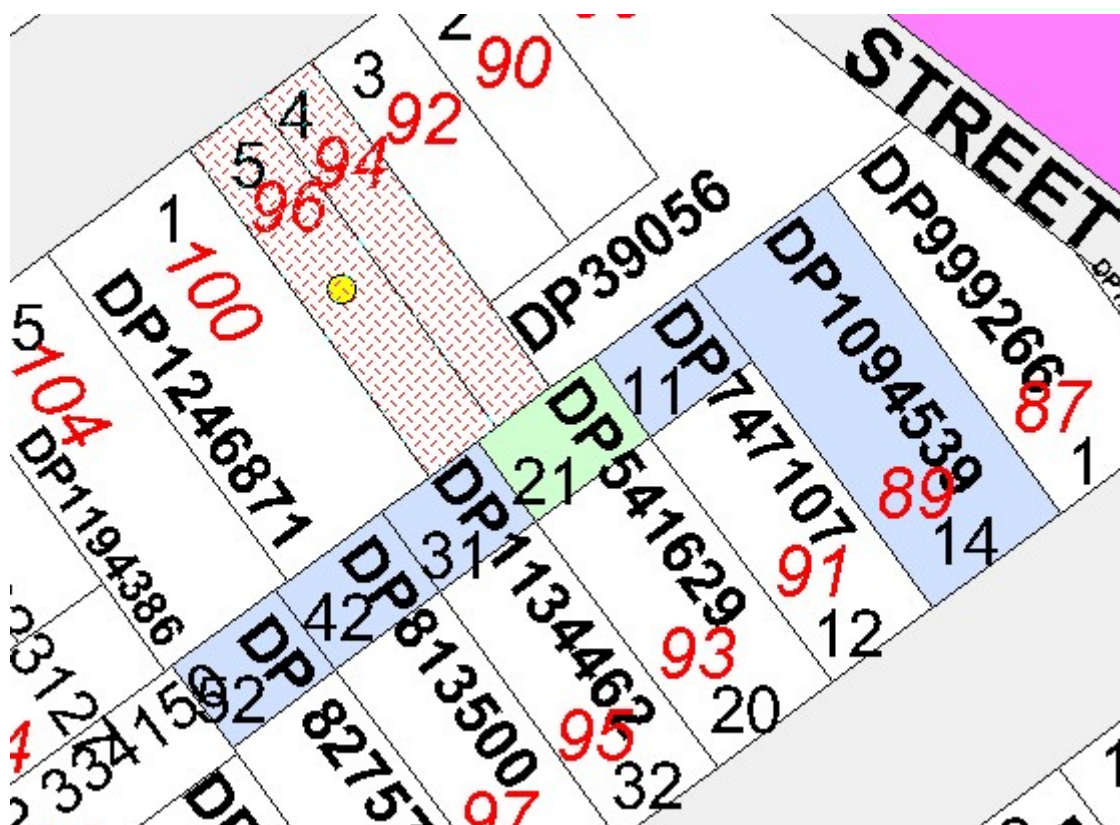
The planning proposal has not been prepared following any outcomes of a study or report relevant to the sites. These properties have been identified as a result of existing (at the time of preparation) development applications that have identified an anomaly as well as a practical/legal access requirements issued as part of GTA's from the NSW Rural Fire service. Necessary background research was undertaken to determine the appropriateness of the reclassification. The rationale and purpose of the Planning Proposal is detailed below.

- **ITEM 1: Lot 21 of DP 541629 (Council owned Car Park / Access Lane) from High Street, East Maitland.**



*Map 1: Site Location*

The lot forms part of a conglomeration of allotments that form part of the Council Car Park and access lane to properties that front High Street, East Maitland. The adjoining allotments to the southeast and northeast of all similar lot size, zoning but are all classification as operational. Map 2 clearly outlines this anomaly in the classification of this lot. The land was acquired from Mr Bourne after transfer of Lot 20 of DP 541629 to the Salvation Army (26<sup>th</sup> of July 1973). Council records do not indicate if the property was obtained under compulsory acquisition. The site was registered on 20<sup>th</sup> April 1979 as a Torrens title site.



Map 2: Subject site (Green) and Operational Land (Highlighted in Blue)

**ITEM 2: Lot 848 of DP 703278 (John Arthur Ave), Part Lot 1538 of DP 832922 and Part Lot 8884 of DP 786883 (Thomas Coke Drive).**

The purpose of this reclassification is to provide and practical legal access, being a requirement from the NSW Rural Fire Service (RFS) Planning for Bushfire Protection 2019 and a previous condition of development consent (DA11-932). The subject sites are zoned RE1 – Public Recreation under the *MLEP 2011*.

Regarding the existing development application, NSW RFS advised Council on 18 August 2021 that the documentation provided had not satisfactorily addressed the issues relating to access, specifically the provision of a through road. The proposed development can comply with Table 5.3B of “Planning for Bush Fire Protection 2019” but will require redesign of the subdivision layout though and reclassification of Council’s reserve to facilitate the construction of the road.

The NSW RFS have advised that they would accept, in the interim, a temporary unfettered road until such a time as the permanent road can be completed to the satisfaction of Council. This will still require reclassification.



*Map 3: Subject Site for item 2 – Access handle to proposed residential subdivision*

The proposed access road is subject to a previously approved masterplan from Maitland City Council. The RFS had issued General Terms of Approval (GTA) stating that access is to comply with the Planning for Bushfire Protection 2019 guideline, though there is no specific reference to the requirement for a through road. In their assessment of the development application, the RFS have advised that they “would accept no less than a through access to a minimum of a non-perimeter road standard.”



*Photo 2: Entry to A & D Lawrence Oval from Thomas Coke Drive, Thornton.*



	<b>from High Street, East Maitland.</b>	anomaly to align with objectives of the B2 – Local Centre zone		
2	<b>Lot 848 of DP 703278 (John Arthur Ave), Part Lot 1538 of DP 832922 and Part Lot 8884 of DP 786883 (Thomas Coke Drive).</b>	Community to change to Operational in order to fulfil a GTA issued by NSW Rural Fire Service for legal and practical access arrangements. Will not impede existing access to A & D Lawrence Fields.	Council Recreation Land known as A & D Lawrence Fields. Access handle to the fields	Extinguish the proposed reclassification portion of public reserve status and remove from proposed Plan of Management (POM). The existing A & D Lawrence Oval will remain a public reserve status.

## SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

### 5. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

#### *Hunter Regional Plan 2036*

This planning proposal supports the following directions and actions of the Hunter Regional Plan 2036. The proposed reclassifications are consistent with the aims and objectives of the Hunter Regional Strategy 2036 (HRS). The proposed Item 2 will enable Council to deliver additional housing supply, consistent with the Strategy 16 – Prioritise Delivery of infill housing opportunities. The associated subdivision comprises of an estimated 25 lots that also within the Growth Corridor for Maitland.

#### *Maitland Local Strategic Planning Statement 2040+*

Under 5.0 Local Planning priorities the priority is to “*plan for diverse and affordable housing to meet the needs of our growing and changing community*”.

The proposed LEP for Item 2 will help contribute to this priority by the facilitation and provision of additional housing stock to the housing supply within the Maitland LGA. The proposed LEP will contribute to the Urban Development Program (UDP) that are one of the key actions of the program.

#### *Greater Newcastle Metropolitan Plan*

The Plan sets out strategies and actions that will drive sustainable growth across Maitland City communities. Maitland City forms part of the five (5) Lower Hunter Councils that make up Greater Newcastle. Figure 2 identifies Thornton as a Centre, and the draft Planning Proposal will contribute to the housing supply supporting the local economy.

## 6. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

### Maitland +10 (Community Strategic Plan)

The proposal supports the following objectives of the Council's community strategic plan (Maitland +10) The planning proposal seeks to ensure that Council delivers on the economic sustainability of the LGA by way of provision of additional housing that is consistent with the long-term strategic planning as well as amending an anomaly that is align with the existing zoning of the land.

### Maitland Urban Settlement Strategy (MUSS)

The MUSS provides the broad direction for future urban growth in the Maitland LGA. The Strategy aims to provide both flexibility and certainty by maintaining a generous supply of land for residential growth on several development fronts throughout the Maitland LGA. Item 1 is in the urban centre of East Maitland within the existing commercial/business precinct. The reclassification enables the functionality of the B2 – Local Centre zoned land. Item 2 is located within the major urban land release of lands known as Thornton North and contributes to the overall land development program for the LGA. By facilitating the reclassification, the planning proposal will provide the practical and legal accessibility to the site.

## 7. Is the planning proposal consistent with applicable state environmental planning policies?

An assessment of the planning proposal against the relevant SEPPs is provided in the table below. Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
State Environmental Planning Policy (Biodiversity)	NA
State Environmental Planning Policy (Industry & Employment)	NA
State Environmental Planning Policy (Precinct Eastern Harbour)	NA
State Environmental Planning Policy (Precinct Western City Parkland)	NA
State Environmental Planning Policy (Precincts Regional)	NA
State Environmental Planning Policy (Precincts Western Sydney)	NA
State Environmental Planning Policy (Primary Production)	NA
State Environmental Planning Policy (Resilience & Hazards)	NA
State Environmental Planning Policy (Resources & Energy)	NA

RELEVANCE	CONSISTENCY AND IMPLICATIONS
State Environmental Planning Policy (Transport & Infrastructure)	NA

**8. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?**

DIRECTION	CONSISTENCY AND IMPLICATIONS
<b>Focus Area 1 Planning Systems</b>	
1.1 Implementation of Regional Plans	N/A
1.2 Development of Aboriginal Land Council land	N/A
1.3 Approval and referral requirements	N/A
1.4 Site Specific Provisions	N/A
<b>Focus Area 1 Planning System – Place Based</b>	
1.5 Parramatta Road Corridor Urban Transformation Strategy	N/A
1.6 Implementation of Northwest Priority Growth Area Land Use and Infrastructure Implementation	N/A
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.	N/A
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A
1.10 Implementation of the Western Sydney Aerotropolis Plan	N/A
1.11 Implementation of Bayside West Precincts 2036 Plan	N/A
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N/A
1.13 Implementation of St Leonards and Crow's Nest 2036 Plan	N/A
1.14 Implementation of Greater Macarthur 2040	N/A

DIRECTION	CONSISTENCY AND IMPLICATIONS
1.15 Implementation of the Pyrmont Peninsula Place Strategy	N/A
1.16 North West Rail Link Corridor Strategy	N/A
1.17 Implementation of the Bays West Place Strategy	N/A
<b>Focus Area 2; Design and Place</b>	
<b>Focus Area 3: Biodiversity and Conservation</b>	
3.1 Conservation zones	N/A
3.2 Heritage conservation	N/A
3.3 Sydney Drinking Water Catchments	N/A
3.4 Application of C3 and C4 and Environmental Overlays in the Far North Coast LEP	N/A
3.5 Recreation Vehicle Area	N/A
<b>Focus Area 4: Resilience and Hazards</b>	
4.1 Flooding	N/A
4.2 Coastal Management	N/A
4.3 Planning for Bushfire Protection	<p>Item 2- the subject site is identified as Bushfire prone land. The rationale for the planning proposal is to enable the facilitation of an access handle that is a requirement issued by the NSW Rural Fire Service.</p> <p>The purpose of this reclassification is to provide a practical legal access, being a requirement from the NSW Rural Fire Service (RFS) Planning for Bushfire Protection 2019 and a previous condition of development consent (DA11-932). The subject sites are zoned RE1 – Public Recreation under the <i>MLEP 2011</i>.</p> <p>Regarding the existing development application, NSW RFS advised Council on 18 August 2021 that the documentation provided had not satisfactorily addressed the issues relating to access, specifically the provision of a through road. The proposed development can comply with Table 5.3B of “Planning for Bush Fire Protection 2019” but will require redesign of the subdivision layout though and</p>

DIRECTION	CONSISTENCY AND IMPLICATIONS
	reclassification of Council's reserve to facilitate the construction of the road.
4.4 Remediation of Contaminated Land	N/A
4.5 Acid Sulfate Soils	<p>Item No 2</p> <p>The site is identified in Class 5 of Acid Sulfate Soils maps under the Maitland LEP 2011. The proposal is for reclassification only with the zone remaining the same and is not considered an intensification of land uses. The future works will include an access handle to the proposed subdivision that is outlined in <i>Map 4 Proposed Access Handle</i>. The function of the existing access way will not change but will be upgraded to Council's satisfaction. Therefore, it is considered that the proposal is consistent with this Direction.</p>
4.6 Mine Subsidence and Unstable Land	N/A
<b>Focus Area 5: Transport and Infrastructure</b>	
5.1 Integrating Land Use and Transport	N/A
5.2 Reserving land for Public Purpose	<p>Item No 1</p> <p>The planning proposal seeks to reclassify an allotment from Community Land to Operational Land. The subject allotment is not defined as a 'public reserve' under the Local Government Act 1993. Given that the use of subject site is remained unchanged (i.e. car park), it is considered that the planning proposal is consistent with the intent of this direction.</p> <p>Item No 2</p> <p>The planning proposal seeks to reclassify part of an allotment from Community Land to Operational Land. The subject allotment is defined as a 'public reserve' under the Local Government Act 1993.</p> <p>This proposal is inconsistent with this direction as the change in community to</p>

DIRECTION	CONSISTENCY AND IMPLICATIONS
	<p>operational land will reduce existing reservations of land for public purposes.</p> <p>The proposal does not impede or jeopardise the existing function and operation of A &amp; D Lawrence Oval. The proposed portion seeking reclassification is the existing access handle to the ovals and the reclassification is to enable a future residential subdivision requiring compliance with NSW Rural Fire Service. The access road will remain a public road and dedication to Council.</p>
5.3 Development near Regulated Airports and Defence Lands	N/A
5.4 Shooting Ranges	N/A
<b>Focus Area 6: Housing</b>	
6.1 Residential zones	N/A
6.2 Caravan parks and Manufactured Home Estates	N/A
<b>Focus Area 7: Industry and Employment</b>	
7.1 Business and Industrial zones	<p>Item 1 – East Maitland City Council The planning proposal is to ensure the functionality of the car park is not compromised by the current land classification. The current zone is B2 – Local Centre under the Maitland LEP with a car park a permissible use.</p> <p>The subject site is currently zoned as B2 Local Centre under the Maitland LEP 2011. However, the proposal is confined to reclassification only and retains the current zoning, boundaries of the zone and development standards. Therefore, it is considered to be consistent with this Ministerial Direction. The proposal will have no adverse impacts upon the viability of the Lorn neighbourhood centre. It will enable the lodging of a development application for redevelopment of the properties within the East Maitland neighbourhood centre along</p>

DIRECTION	CONSISTENCY AND IMPLICATIONS
	George Street and provide an improved range of options regarding rear access over the subject land.
7.2 Reduction in non-hosted short-term accommodation	N/A
7.3 Commercial and retail development along the Pacific Highway, North Coast	N/A
8.1 Mining, Petroleum Production and Energy	N/A
<b>Focus Area 9: Primary Production</b>	
9.1 Rural Zones	N/A
9.2 Rural Lands	N/A
9.3 Oyster Aquaculture	N/A
9.4 Farmland of Regional and State of Significance on the Far North Coast NSW	N/A

## SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

### 9. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Item 1 - contains no critical habitats or threatened species as it is a hard surface urban parcel of land that forms part of an existing car park/access lane.

Item 2 - the proposed pathway for the through road to Thomas Coke Drive would not require the removal of any vegetation, it does not impact on any potential critical habitat. Further, there is an existing access road on the land proposed to be reclassified, it is considered that there no adverse environmental impacts.

### 10. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

11. Item 1 - contains no critical habitats or threatened species as it is a hard surface urban parcel of land that forms part of an existing car park/access lane.

12. Item 2 - the proposed pathway for the through road to Thomas Coke Drive would not require the removal of any vegetation, it does not impact on any potential critical habitat. Further, there is an existing access road on the land proposed to be reclassified, it is considered that there no adverse environmental impacts.

**13. How has the planning proposal adequately addressed any social and economic effects?**

Item No 1

The planning proposal will enable the practical and legal ability for an adjoining business to access their site. It will contribute to ensuring that an existing business can continue to operate and will solve the legal access matter.

Item No 2

The planning proposal will enable the facilitation of an existing residential development application to be finalised. This will include:

- Provision of additional housing stock for an increasing population:
- Wide variety of lot sizes to increase housing types:
- Provides short terms construction employment
- Provides housing for a larger community near employment and services.

**SECTION D – STATE AND COMMONWEALTH INTERESTS**

**14. Is there adequate public infrastructure for the planning proposal?**

Yes. Item 1 is an existing Council owned car park servicing the surrounding business community whilst Item 2 is part of the existing open space/ Playing fields servicing the Thornton community. The Planning proposal does not compromise the integrity of both the car park or the playing fields.

**15. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal. Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal. It is anticipated that NSW Rural Fire Service would be consulted in relation to this planning proposal.

## PART 4: DRAFT LEP MAPS

The following Draft LEP maps support the proposal:

Item 2: Land Reclassification (Part Lot ) Map



## **PART 5: COMMUNITY CONSULTATION**

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, and section 29 of the Local Government Act 1993, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

In accordance with Council's adopted Community Engagement Strategy (March 2009), consultation on the proposed rezoning will be undertaken to inform and receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

- Notice in the Hunter Post newspaper;
- Exhibition material and relevant consultation documents to be made available at all Council Libraries and Council's Administration Building;
- Consultation documents to be made available on Council's website;
- Notices published on Council's social media applications, for public comment.
- Consultation with any relevant committee or reference groups?

### **Public Hearing**

- In accordance with section 29 of the Local Government Act 1993, a public hearing will be held. The public hearing will be undertaken in accordance with section 5.5.3 of the Department's LEP guideline.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the planning proposal before proceeding to finalisation of the amendment.

The consultation process, as outlined above, does not prevent any additional consultation measures that may be determined appropriate as part of the Gateway Determination process.

## PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	May 2022
Anticipated timeframe for the completion of required studies	NA
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	June 2022
Commencement and completion dates for public exhibition period	June 2022
Dates for public hearing (if required)	July 2022
Timeframe for consideration of submissions	July 2022
Timeframe for the consideration of a proposal post exhibition	August 2022
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	September 2022
Anticipated date RPA will make the plan (if delegated)	
Anticipated date RPA will forward to the department for notification (if delegated)	September 2022